

Before the
Federal Communications Commission
Washington, DC 20554

FCC Form 800

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In the Matter of)
)
Request for Waiver by)
)
Olathe Public Library) File No. SLD-354678
Olathe, Kansas)
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER**Adopted: February 5, 2004****Released: February 6, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Olathe Public Library, Olathe, Kansas (Olathe).¹ Olathe requests a waiver of the Commission's rules governing the schools and libraries universal service support mechanism, specifically, the 28-day competitive bidding requirement and the deadline for filing the accompanying FCC Form 471 application for Funding Year 2003.² For the reasons set forth below, we deny each Waiver Request.

2. In its Waiver Request, Olathe states that its Funding Year 2003 Form 470 was submitted on-line in a timely manner, but was not properly certified.³ Olathe therefore requests a deadline extension so that it may certify its Form 470.⁴ Olathe also requests a waiver of the filing window for the Form 471.⁵

3. We find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than strict adherence to the general rule.⁶ The fact that

¹ Letter from Mary Linse, Olathe Public Library, to Federal Communications Commission, filed January 17, 2003 (Waiver Request).

² See Waiver Request.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account

Olathe's Form 470 was not properly certified, thereby preventing it from submitting a complete Form 471 within the filing window does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.⁷ In light of the thousands of applications that SLD must review and process each year, it is administratively necessary to require an applicant to be responsible for providing complete and accurate information. Further, the Commission has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.⁸

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Waiver filed by Olathe Public Library on January 17, 2003 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones
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Wireline Competition Bureau

considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

⁷ See, e.g., *Request for Waiver by Duncanville Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-272355, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 11863 (Wireline Comp. Bur. 2002) (The Applicant bears the responsibility of completing the relevant forms and submitting them within the established deadline.)

⁸ See, e.g., *Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521 (Wireline Comp. Bur. 2003); *Request for Waiver by Center City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).